

**REMARKS**

Entry of the foregoing, reexamination and further and favorable reconsideration of the subject application, in light of the following remarks, pursuant to and consistent with 37 C.F.R. § 1.116, are respectfully requested.

By the foregoing amendment, claims 1, 3-8, 11-14, 16-18, 20-22, 32-34, 36-38, 40-42 and 44-46 have been canceled without prejudice or disclaimer to the subject matter recited therein. Applicants reserve the right to file a divisional or continuation application directed to any canceled subject matter. Additionally, claims 31 and 35 have been amended to indicate that the nucleic acid sequence has been introduced "in said progeny . . . ." Support for this amendment can be found throughout the originally-filed application. No new matter has been added.

Turning now to the Official Action, applicants acknowledge the Examiner's statements that claims 2, 15, 19 and 39 are allowed and that claims 2, 15, 19, 31, 35, 39 and 43 are deemed free of the prior art.<sup>1</sup> See Official Action at 8.

Claims 1, 3-8, 11-14, 16-18, 20-22, 32-34, 36-38, 40-42 and 44-46 have been rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was allegedly not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors had possession of the claimed invention. This rejection is respectfully traversed.

To expedite prosecution in the present application, and not to acquiesce to the Examiner's rejection, claims 1, 3-8, 11-14, 16-18, 20-22, 32-34, 36-38, 40-42 and 44-46 have been canceled. Thus, the Examiner's rejection under 35 U.S.C. § 112,

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<sup>1</sup> It is noted that claim 43 has been indicated as being free of the prior art and has not been rejected or objected to in the November 13, 2003 Official Action. Thus, it is believed that claim 43 should also be considered to be allowed.

first paragraph, is moot. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 1, 3-8, 11-14, 16-18, 20-22, 32-34, 36-38, 40-42 and 44-46 have also been rejected under 35 U.S.C. § 112, first paragraph, because the specification purportedly does not reasonably provide enablement for isolated nucleic acids, or methods of using isolated nucleic acids, other than those encoding an amino acid sequence of SEQ ID NO:2. This rejection is respectfully traversed.

As discussed above, and without acquiescing to this or any other rejection, the claims set forth above have been canceled. As such, the Examiner's rejection under 35 U.S.C. § 112, first paragraph, is rendered moot. Withdrawal of the rejection is therefore respectfully requested.

The Examiner has rejected claims 6, 18, 22, 30, 34, 38, 42 and 46 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. This rejection is respectfully traversed.

Claims 6, 18, 22, 30, 34, 38, 42 and 46 have either been previously or are currently requested to be canceled without prejudice or disclaimer to the subject matter recited therein. This rejection under 35 U.S.C. § 112, second paragraph, is hence moot. Accordingly, the Examiner is respectfully requested to withdraw the rejection.

Claims 11-12 and 31-38 have similarly been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. This rejection is respectfully traversed.

The rejection is rendered moot as to now canceled claims 11, 12, 32-34 and 36-38. As for claims 31 and 35, these claims have been amended to recite that the

nucleic acid sequence has been introduced "in said progeny . . . ." This claim amendment is not intended to limit the scope of such claims or any element(s) recited therein. In view of the above, the Examiner is respectfully requested to withdraw this rejection.

Finally, claims 1, 3, 6-8, 11-14, 16, 18, 20, 22, 32, 34, 36, 38, 40, 42, 44 and 46 have been rejected under 35 U.S.C. § 102(a) as purportedly being anticipated by Chuck et al. (U.S. Patent No. 5,910,627) and claims 1, 3-8, 16-18 and 20-22 have been rejected under 35 U.S.C. § 102(a) as purportedly being anticipated by Gaxiola et al. (PNAS USA, 96:1480-85 (Feb. 1999)). Both of these rejections are respectfully traversed.

Again, to expedite prosecution, and not to acquiesce to any of the Examiner's rejections, the above rejected claims have been canceled. These two anticipation rejections are thereby rendered moot. Withdrawal of such rejections is thus respectfully requested.

In view of the above, all of the pending claims are believed to be in condition for allowance. Further and favorable action in the form of a Notice of Allowance is therefore respectfully requested and believed to be in order.

In the event that there are any questions relating to this Amendment and Reply, or the application in general, it would be appreciated if the Examiner would telephone the undersigned attorney concerning such questions so that prosecution of this application may be expedited.

Respectfully submitted,

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